

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

UNITED STATES OF AMERICA,)	
)	
v.)	CRIMINAL NO. H-10-459
)	
WILMAR RENE DURAN GOMEZ)	
Aka “El Gordo,” aka “Junior,” aka)	
“Oscar,” aka “Carnalito”)	

**GOVERNMENT’S INFORMATIVE OUTLINE REGARDING PROOF OF
AGGRAVATING FACTORS IN PENALTY PHASE**

The United States of America, by and through Ryan Patrick, United States Attorney for the Southern District of Texas, Assistant United States Attorneys Jill Jenkin Stotts and Lisa Marie Collins, and Department of Justice Attorney Barry K. Disney, and pursuant to this Court’s order, files this informative outline regarding its intended proof of aggravating factors during the penalty phase in this case.

1. Purpose of Outline

As the defendant requested in his Reply to Government’s Response to Motion for Informative Outlines he is “merely asking the government to produce an outline—i.e., an overview of the facts that it believes support the aggravating factors, written with enough specificity to allow [the defendant] to prepare his defense” and is not asking that the outline “reveal evidentiary detail” or that the government “identify exactly what pieces of evidence or exhibits it will introduce in support of each factor.” (ECF 468, pg. 11). The purpose of this informative outline, therefore, is to provide such an overview. The facts

set forth are not a complete, exhaustive, nor exclusive list of all specific facts the government will rely upon at the sentencing hearing but are, as requested, an overview. In addition, the government will rely on the testimony of witnesses and evidence presented at the guilt phase of the trial.

2. Accomplice liability

“Although individualized consideration is a constitutional requirement in imposing the death sentence, an aggravating factor can be based on liability as an accessory. Allowing a jury to consider that the defendant acted jointly in determining aggravating circumstances is consistent with the rule that a defendant can be sentenced to death in some circumstances even though he only aids and abets the killing”. *United States v. Ortiz*, 315 F.3d 873, 901, (2002) (internal cites omitted). This outline includes not only a recitation of the acts of the individual acts of the defendant but additionally acts of others which the government contends the defendant is responsible for as an accessory.

3. Summary of Facts

The following facts are a summary of the anticipated evidence as it relates to the aggravating factors the government believes will be established at the guilt and penalty phase of the trial and are offered for the purpose of helping the defendant understand the aggravating factors upon which the government relies.

Day One - Monday, November 6, 2006

In November of 2006 a group of illegal aliens were smuggled into the United States. On November 6, 2006, the aliens arrived at a stash house located at 7315 Ashcroft Drive, Houston, Texas. Upon entering the stash house they were taken to a

room ("Room I"). After being directed to Room I, Jose Alberto BOLANOS-Garza (BOLANOS), to whom the aliens referred as "Pelon," and EFRAIN RODRIQUEZ-MENDOZA, to whom the aliens referred as "El Chino," ordered them to remove all clothing except undershorts. Seven of the aliens for whom smuggling fees had been paid were moved out of Room I.

Hector LNU walked into Room I clad only in boxer shorts. Hector LNU told the group he had been at the stash house since Saturday, November 4th. Hector LNU further told the group that he was hungry, could no longer tolerate staying at the stash house, and was desperate to leave. Hector Flores also confided that he was planning to start a fire as a diversion for the escape.

Day Two -Tuesday, November 7, 2006

On November 7, 2006 a fire erupted in the warehouse. All aliens were evacuated in two vans. Abelardo Sagastume ("Sagastume") and Hector LNU were in the van driven by RODRIGUEZ. In a phone conversation RODRIGUEZ said he would investigate whether the fire was purposefully started. He further asserted he would find the truth, even by beating the aliens if necessary.

When the vans returned to the warehouse a group of seven (7) men were then placed in Room I. The group of seven (7) consisted of Hector LNU, Sagastume, Freddy Flores, Espinoza, Melendez, Portillo, and "Jose" or "Luis" LNU.¹ The group of seven (7)

¹ The usage "Jose" or "Luis" is simply meant to indicate that witnesses providing statements to investigating authorities were uncertain as to the correct name. Further, this reference to "Jose" is not to be confused with "Jose Fuentes" one of the drivers for the smuggling organization.

were all ordered to strip. BOLANOS then telephoned an individual to whom he referred as "Carnalito" and told him to return to the stash house to see what was happening. The defendant Wilmar Renee Duran (DURAN) arrived approximately ten minutes later.

Upon DURAN's arrival, BOLANOS told DURAN he had complied with the latter's directions that all seven (7) be nude, with their hands bound. The aliens' families were again contacted concerning smuggling fees. Following the telephone calls to the families, DURAN, BOLANOS, and RODRIGUEZ began beating the seven (7) naked and bound men.

The beatings took place in two (2) stages. First, RODRIGUEZ and BOLANOS took Hector LNU and Freddy Flores to the garage, from and immediately after which moaning and groaning sounds were heard. Further, approximately five (5) minutes following Hector LNU's removal to the garage, a gunshot was heard from within the room. Approximately thirty (30) minutes after the apparent gunshot, BOLANOS removed Melendez to the garage. Melendez observed DURAN and RODRIGUEZ beating Hector LNU and Freddy Flores. Melendez further observed a broken broomstick next to Freddy Flores and two marks on Freddy Flores' shoulder, which, in his opinion, appeared to be consistent with blows from the broomstick. DURAN had a black firearm in his waistband. When Freddy Flores and Hector LNU were returned to Room I, witnesses observed bruises and red marks on Freddy's back and arms and red marks on Hector LNU's back and bruises on his stomach.

Stage two (2) of the beatings occurred in Room I. All occupants of the room were placed on the floor. DURAN then resumed beating Hector LNU. He stomped on his

shoulders and back and commanded him to "tell the truth." DURAN kicked Sagastume's abdomen and stomped on Freddy Flores and Jose/Luis. DURAN also stomped on Portillo and kicked him in the abdomen. DURAN and BOLANOS each used a broom handle and an extension cord, in addition to their hands and feet, to administer the beatings. During the course of the beatings, DURAN ordered two (2) cooks to shave the heads and eyebrows of the victim-aliens. This was done unevenly, with patches of hair and eyebrows remaining. These beatings and the head and eyebrow shaving ceased approximately 12:00 p.m. noon November 7th.

Day Three - Wednesday, November 8, 2006

On Wednesday morning, the seven men in Room I were nude, bound with their hands tied behind their backs, and lying face down on the floor. DURAN and an unidentified man entered the room and resumed beating Hector LNU, Freddy Flores, Jose/Luis, and Portillo. The remaining three occupants, Melendez, Sagastume, and Espinoza, were not beaten at this time. Later that same day of November Freddy Flores and Jose/Luis, were released after their smuggling fees were paid, leaving five (5) men in Room I.

Hector LNU eventually admitted to DURAN and RODRIGUEZ that he started the fire. When questioned further by RODRIGUEZ, Hector LNU replied that he was desperate because his sister-in-law had paid approximately \$500, but had been unable to come up with the balance. Following this admission, DURAN sodomized Hector LNU using the end of a broomstick. Further, DURAN forced Hector LNU to lick the fecal matter remaining on the broomstick end. DURAN left the room thereafter, and the

remaining hostages slept with no further incidents that night.

Day Four - Thursday, November 9, 2006

RODRIGUEZ entered the room and was noticeably drunk. He stomped on Hector LNU's back and hit him in the back of the head with a firearm until he bled.

RODRIGUEZ used the grip of the firearm for the beating. RODRIGUEZ stomped on everyone else as well, but Hector LNU was targeted more than everyone else. He received the most beatings. While the beatings occurred, the victim-aliens were ordered not to look or speak.

Day Five - Friday, November 10, 2006

More beatings occurred on Friday. DURAN administered the beatings first, and then RODRIGUEZ continued the beatings in lieu of DURAN.

Day Six- Saturday, November 11, 2006

On Saturday, the Castellon-Amador family (Juan Manuel, Elias, Javier, Orlin, and Katherine) arrived at the stash house from Honduras. When they arrived, the men in the family were stripped of all their clothing except their boxer shorts and placed in Room I. They noticed the aforementioned remaining five men, who were nude and appeared beaten. The Castellon-Amador family members were in general agreement that others' faces and bodies appeared beaten, but they did not appear to have severe injuries. Members of the Castellon family advised their hands were untied, but ligature marks were apparent on their wrists. Sagastume explained to Juan Manuel Castellon that their hands were tied at night and when they were beaten. Sagastume further commented that DURAN and BOLANOS performed the beatings, and that

they had been beaten with brooms and wooden handles.

When the Castellon-Amador family first arrived, the beaten men were able to rise and walk around, and they did not appear to have any broken bones. Another victim-alien at the stash house known only as "Chicken Little" told Juan Manuel Castellon that the beaten men began shaking whenever they learned that DURAN, to whom Chicken Little referred as "El Jefe," was present in the house. Chicken Little further told Elias Castellon that the beaten men were very afraid of DURAN.

At approximately 2:00 p.m., the men among the Castellon family were removed from Room I. RODRIGUEZ poured beer over all the aliens remaining in Room 1 and also beat them. DURAN and BOLANOS joined RODRIGUEZ in administering the beatings. DURAN sodomized Hector LNU with a beer bottle at that time. DURAN told Hector LNU that "if [he] wanted to fart, he should fart in the beer bottle," or words to that effect, after which DURAN inserted a beer bottle into Hector LNU's rectum. DURAN then instructed RODRIGUEZ to pour "perfume" (or some form of flammable accelerant) on Hector LNU's back and ignite it. Following this, it appeared that Hector LNU's skin was very badly burned. In addition to the burned flesh the extent of Hector LNU's injuries were as follows: (1) his face was swollen; his right eye, back, and arms were bruised; and (3) he was bruised and bleeding from the back of his head. Concerning visible injuries to Sagastume, his left cheek and left eye were swollen, and his right cheek was scratched and abraded from having been dragged across the floor/carpet.

Day Seven - Sunday, November 12, 2006

BOLANOS told the aliens that each of them would be allowed to make a telephone call, during which they were to alert their respective families that they were being beaten, that the release-money must be sent, and that the alien-hostages would be killed if the money did not come quickly enough. BOLANOS ordered Chicken Little to strike each alien- hostage on the head during their respective telephone calls. Indeed, Portillo was stricken during the telephone conversation with members of his family. During Hector LNU's conversation with his sister-in-law, he told her he had been beaten. Sagastume's family did not have money to pay². After this telephone conversation, BOLANOS ordered all alien-hostages to lie face down on the floor and advised that "the boss was on his way," or words to that effect. DURAN arrived approximately ten (10) minutes later, and the beatings thereafter resumed. DURAN beat all Room I occupants with an extension cord and a wooden stick and kicked them. Later that evening Sagastume was moved to what was referred to as "the paid room." Further, after Sagastume was removed to "the paid room," RODRIGUEZ beat the remaining four (4) occupants because RODRIGUEZ asserted he heard them talking. When RODRIGUEZ finished beating them, he ordered one (1) of the male occupants of "the paid room" to wash RODRIGUEZ' white shoes.

² Jorge Sagastume, brother of Abelardo Sagastume, recalled speaking to Abelardo via telephone during his ordeal. During this conversation Abelardo commented that he was being tortured so badly, he wished to be killed.

Day Seven, November 12 (2006), was the first day Melendez was beaten. DURAN ordered the men to lie on their stomachs and told the cooks to tie the men's hands behind their backs. At one point Melendez looked at DURAN and asked how he should be facing. DURAN exclaimed, "Don't talk back to me!" and stomped on Melendez' back an estimated eight (8) times. Everyone except Espinoza was beaten during that episode. DURAN fired a pistol round into the floor between Hector LNU and Melendez' heads. The round skipped off the floor and into the wall. Later that evening at approximately 9:00 p.m., Katherine Martinez was cooking and she asked DURAN for permission to feed the beaten men. DURAN replied "They forgot to tell you? The beaten ones aren't to be fed. They will eat dick." Approximately twenty RODRIGUEZ directed Chicken Little to take Sagastume back to the beating room because the latter had reportedly "talked back to" DURAN. The beatings resumed immediately upon Sagastume's return to Room I. Witnesses heard what sounded like Sagastume being thrown against a wall. Later that evening Chicken Little told the men of the Castellon-Amador family that BOLANOS and RODRIGUEZ rubbed "lotion" (apparently referring some form of flammable accelerant) on the aliens and set them afire. Additionally and specifically, Elias Castellon heard BOLANOS speaking to someone via telephone and during this conversation BOLANOS stated they had used all the alcohol burning one of the beaten men.

Day Eight- Monday, November 13, 2006

A man (not specifically identified) asked the male Castellon family members whether any of them had "fever-lowering medicine," or words to that effect. The man

further explained the beaten men had high fevers probably resulting from the burnings.

When the door to Room I (i.e., the beating room) was opened, the apparent stench of blood and urine was very strong. BOLANOS and RODRIGUEZ ordered the five (5) beaten men to take a shower, after which three (3) nude men walked in the direction of the shower. RODRIGUEZ called over Espinoza, and they physically carried one (1) of the remaining two (2) from the room, whom was apparently alive but unable to move. This man was taken to the garage to be bathed. No witness saw this man returned to the beating room. Nor did anyone see whether the fifth and one (1) remaining occupant was likewise carried out.

Day Nine -Tuesday, November 14, 2006

During the following morning, Sagastume and Hector LNU began discussing plans for an escape. Witnesses thought either RODRIGUEZ or BOLANOS overheard them. Later that afternoon DURAN returned to the stash house-warehouse. In the beating room RODRIGUEZ moved Portillo and Espinoza to the opposite end of the wall away from Sagastume and Hector LNU. Each of their hands were tied. RODRIGUEZ directed Portillo and Espinoza to lie face down on the floor, with their hands under their chests. When RODRIGUEZ returned DURAN was with him. RODRIGUEZ first beat Sagastume and Hector LNU with the extension cord, followed by a beating with a broomstick, i.e., until it broke. At this point DURAN asked of where Melendez' whereabouts. Melendez was returned to Room I and ordered to completely undress. Melendez saw that Sagastume and Hector LNU appeared to be in worse

condition than when last seen by him. Per DURAN's order, Chicken Little tied Melendez' hands, shrouded his head with a black plastic bag, and tied the bag closed around his neck. Then, someone placed Melendez' back against the wall, after which he was kicked in the chest. He fell to the floor on his stomach. Melendez momentarily blacked out. However, upon catching his breath he was ordered to stand up. When he rose someone punched him in the forehead. At this point Melendez was bleeding from three places, i.e., his forehead, the bone above his eye, and the left side of his lip. After the punch to his forehead he again fell to the ground. He heard a dripping sound, i.e., the sound of his blood dripping within the plastic bag. He heard BOLANOS comment that the bag over his head should be removed for fear that he would choke. One of the cooks removed the bag. Thereafter, DURAN commented, "[He] now felt calmer ...having seen blood that day," or words to that effect. Melendez was ordered to lie face down on the floor, but he was unable to do so and remained kneeling with his face to the ground. He was left alone for the rest of the day. However, Melendez later observed RODRIGUEZ beat Sagastume and Hector LNU with a white extension cord, leaving markings on their thighs and backs. After these whippings, RODRIGUEZ and DURAN departed the beating room.

Approximately one (1) hour later BOLANOS returned and told Portillo and Melendez to get dressed because they were leaving. BOLANOS further explained he would "do them a favor" by hiding them in a room different from "the van room." He further advised that if they heard DURAN coming, they should hide. Espinoza told BOLANOS that Sagastume and Hector LNU were making new plans to escape. He

further reported Sagastume and Hector LNU threatened to kill Espinoza by beating him with a metal pipe if Espinoza refused to help them escape. However, Espinoza ran out of the beating room and reported the plot to BOLANOS. At approximately 10:00 p.m., RODRIGUEZ entered the beating room and began beating Sagastume and Hector LNU, during which witnesses could hear them moaning and groaning.

DURAN arrived approximately 11:00 p.m. When told of Sagastume and Hector LNU's reported new escape plan, DURAN responded, "Those sons-a-bitches don't want to live." Witnesses stated they believed DURAN order that they be "shrouded." Thereafter, sounds consistent with further beatings as well as repeated moans and groans were heard. Further, it sounded as though a wooden stick was being used. These beatings occurred at various intervals over the course of an hour (approximately). Hector LNU's moans and groans grew progressively weaker. The intervals between beatings grew progressively longer. Ultimately, there was silence. Witnesses opined that Sagastume died first. Finally, witnesses heard someone comment that [Hector LNU] "died this time."

Day Ten - Wednesday, November 15, 2006

At approximately 6:10 a.m., the bodies of Sagastume and Hector LNU were found in a rural portion of Fort Bend County, Texas, by Deputies of the Fort Bend County Sheriff's Office (FBCSO). The bodies were inside a truck. It appeared an attempt was made to set the truck afire. The Medical Examiner's Office determined the deaths occurred twelve (12) to twenty-four (24) hours prior to discovery of the bodies. Hector LNU's hands were tied behind his back with a black nylon cord.

Sagastume's hands were not tied but a cord similar to the one used to tie Hector LNU's hands was found in the sleeping bag in which the Sagastume's body had been placed.

Subsequent Investigation

The autopsy reports indicate both Sagastume and Hector LNU died as a result of multiple blunt force trauma.

The medical examiner concluded that at least four different objects were used to inflict injuries on Sagastume. There were blunt force injuries on the body that were consistent with an electrical cord. These injuries were located mostly on the back. There were round blunt force injuries located on the head that were consistent with a hammer or similar object such as a piece of pipe. Apparent ligature marks were found on Sagastume's wrists.

The medical examiner concluded that Hector LNU's fingers in the right hand had multiple fractures. The legs had numerous wounds consistent with a cylindrical object such as a piece of pipe. There were blunt force trauma wounds consistent with an electrical cord.

It is anticipated that BOLANOS will testify that DURAN was in charge of the smuggling operation and gave him orders. DURAN instructed him as to the 'processing' of incoming aliens, including, among other things, having them strip down to their underwear. Following the fire, DURAN instructed BOLANOS to take away the clothes of the two (2) suspected of having started the fire. He also ordered that they be given nothing to eat or drink. DURAN told Sagastume and Hector LNU

they would pay for the damages to the warehouse. BOLANOS is expected to testify that DURAN and RODRIGUEZ, began beating the alien-hostages every day until the two (2) men were dead and that DURAN devised the plan to dispose of the bodies.

Jose Fuentes (Fuentes), a driver for the smuggling organization, stated, among other things, that one day he went to the warehouse and DURAN told him to come inside to look at something. Fuentes observed three (3) beaten men who were completely nude with plastic bags over their heads. It further appeared that one (1) had skin peeling from his back. This person made noises and arched his head when he looked at Fuentes. Fuentes could not determine whether the other two were alive or dead.

According to Patricia Holguin (Holguin), another driver of the organization, families of the alien-hostages often did not want to pay the fees demanded by DURAN. Holguin stated the hostages (to whom she referred as "passengers") were repeatedly beaten. DURAN told Holguin that some who started a fire were placed in one room, denied food, and continuously beaten. DURAN sent a video to her cell phone, in which video Duran was seen to be wearing military-style boots and kicking male aliens. She later asked DURAN whether he had murdered two (2) of the male aliens.

According to Judith Lopez (Lopez), DURAN's half-sister, on November 13, 2006, DURAN told her to watch the 4:00 p.m. news. Lopez thought he was worried. She asked him, "What have you done?" DURAN made multiple admissions, including, but not limited to, the following: (a) several days ago three (3) people at the warehouse attempted to start a fire, and he, "Pelon" (i.e., BOLANOS), and another individual beat them; (b) he

kicked them with his boots and bent different parts of their bodies by standing on top of them; (c) they attempted to light the bodies on fire when they disposed of them; and (d) because they did not stay to assure [the truck] caught on fire, he was worried it did not burn as intended. According to Lopez, DURAN never showed any remorse for the deaths.

Statutory Aggravating Factors

3592(c)(6) Heinous, cruel, and depraved conduct

The government's theory is that the defendant, or others whose conduct the defendant is responsible for as an accessory, tortured and inflicted serious physical abuse upon Albelardo Sagastume and/or Hector LNU on repeated occasions above and beyond what that necessary to cause death as more fully described in the recitation of facts. This torture included mental and physical abuse that Sagastume and/or Hector LNU consciously perceived. The mental torture includes, but it not limited to, the torturing of the other victims in the presence of Sagastume and/or Hector LNU.

3592(c)(5) Knowingly created a grave risk of death to one or more person in addition to Sagastume and Hector LNU

The government's theory is that during the torture and beatings of Hector LNU and/or Sagastume the defendant, or others whose conduct the defendant is responsible for as an accessory, also tortured and/or beat others as more fully described in the recitation of facts, thereby creating a significant and considerable possibility under the circumstances that existed at the time that the others being tortured and/or beaten could be killed. Examples include the firing of rounds in a confined space and the torture of other victims in the presence of Sagastume and/or Hector LNU.

3592(c)(16) Intentionally killing of more than one person

Although the government has chosen not to allege as an initial intent factor that the defendant intentionally killed Hector LNU and/or Sagastume, it is the government's theory that substantial competent evidence exists to prove beyond a reasonable doubt that the defendant, or others whose conduct the defendant is responsible for as an accessory, did intentionally kill Hector LNU and/or Sagastume. To prove this aggravating factor the government will rely on the facts set forth above, including, that upon learning of Sagastume and Hector LNU's new escape plan Duran responded, "Those sons-a-bitches don't want to live," ordered Sagastume and Hector shrouded, and then proceeded to participate in an approximate hour long beaten of Hector LNU and Sagastume in which both men were killed.

3592(c)(9) Substantial planning and premeditation

Although the government has chosen not to allege as an initial intent factor that the defendant killed Hector LNU and/or Sagastume with premeditation, it is the government's theory that the defendant, or others whose conduct the defendant is responsible for as an accessory, killed Hector LNU and/or Sagastume with substantial planning and premeditation. To prove this aggravating factor the government will rely on the facts set forth above, including that upon learning of Sagastume and Hector LNU's new escape plan Duran responded, "Those sons-a-bitches don't want to live," ordered Sagastume and Hector shrouded, and then proceeded to participate in an approximate hour long beaten of Hector LNU and Sagastume in which both men were killed.

3592(c)(11) Victim vulnerability

The government's theory is that when the beatings of Day Nine occurred both Sagastume and Hector LNU were particularly vulnerable due to physical infirmity resulting from the previous beatings. Sagastume and Hector LNU's weakened state on Day Nine made them less able to escape, resist, or withstand, the Day Nine beatings than most people.

3592(c)(1) The deaths or injuries resulting in death, of Abelardo Sagastume and Hector LNU occurred during the commission or attempted commission of hostage taking or kidnapping

Kidnapping

The government's theory is that Sagastume and Hector LNU were killed while they were being willfully seized, confined, and held for ransom and reward as more fully set out in Court Four and Five of the Second Superseding Indictment and the discovery provided to the defendant.

Hostage Taking

The government's theory is that Sagastume and Hector LNU were killed while they were they seized and detained and threats were made to kill, injure, and continue to detain them in order to compel their families to pay money as more fully set out in Count Six and Seven of the Second Superseding Indictment and the discovery provided to the defendant.

Non-Statutory Aggravating Factors

3593(a) Victim vulnerability

The government's theory is that because Sagastume and Hector LNU were illegal aliens inside the United States, because they were kept locked in a warehouse under guard without the ability to leave, because they had been stripped of their clothing and personal belongings taken, and because they were unable to extricate themselves, they were more vulnerable than most people to the abuse inflicted upon them by the defendant and/or those for whom he is criminally responsible.

3593(a) Victim impact

At the current time the identity of Hector LNU has not been established therefore the impact his death has had on his family is unknown.

Sagastume is survived by his parents and six (6) siblings. Law enforcement authorities interviewed two (2) of the siblings, Jorge Sagastume and Lourdes Sagastume. Both expressed their ongoing sadness and anger over their brother's death. Jorge stated that since the murder his parents have experienced difficulty sleeping. Lourdes stated her parents often cry when discussing their deceased child. Although the other family members identified the deceased, from post-mortem photographs, as Abelardo Sagastume, the mother did not believe her son was depicted in the photographs. Both stated their mother talks of little else but the murder of her child. Sagastume's father has since died. The family believes he died of a broken heart.

3593(a) Future dangerousness

It is the government's theory that the throughout his adult life Duran has displayed a continuing pattern of violence that proves he poses a future danger to the lives and safety of those whom he is around. The future dangerousness of the defendant is displayed by his continuing pattern of violence; his low likelihood of rehabilitation; and his lack of remorse. These factors, whether considered singularly or jointly, establish that Duran is likely commit criminal acts of violence in the future that would threaten the lives and safety of those whom he is around.

The evidence the government would rely upon to show Duran's future dangerousness is as follows:

Continuing pattern of violence

"A female employee states that when she was having a discussion with Duran-Gomez, he suddenly pressed a loaded .357 pistol to her head."

Patricia Holguin advised that sometime during the latter part of 2006, she and DURAN were having a discussion when DURAN pressed a loaded .357 pistol to her head.

"A former girlfriend reports that after an argument erupted, Duran-Gomez kicked her hard in the stomach."

Shawna Reyna advised that in 1998, while she and DURAN shared an apartment, she was lying on the floor watching television when an argument erupted between them. DURAN kicked her very hard in the stomach. She also advised that in the fall of 1999, while she and DURAN were waiting at a bus stop, she chatted to another male at the bus stop, which angered DURAN. DURAN advanced toward her and she picked up a nearby

2x4 piece of wood to protect herself. DURAN backed off.

“His half-sister states that she witnessed Duran-Gomez grab his mother by her hair and drag her from the bedroom to the living room of their apartment.”

Judith Lopez advised that during 1993, she twice witnessed DURAN grab his mother, Florencia Lopez, by the hair and drag her from the bedroom to the living room of their apartment.

“Another former girlfriend reports that Duran-Gomez frequently beat and physically abused her, by punching her, raping her, and locking her in the bedroom for extended periods of time.”

Ivette Aragon-Diaz (Aragon) (DURAN's ex-girlfriend) advised that from January of 2000 through mid-2001, DURAN often and frequently beat and physically abused her. For example, in or about January of 2000, and while Aragon was showering, DURAN hit her in the face with a closed fist and burst her lip. She also specifically advised that sometime in 2001, while she and DURAN were watching television, she laughed at the host of a show broadcasting on television. DURAN became angry, asked whether she liked the host, forced her directly in front of the television, and forced her to watch the program host while DURAN was holding a knife against her lower back. Aragon also advised she tried to leave DURAN (on an unrecalled date) and took her daughter with her. She and her daughter boarded a bus. However, because DURAN (via cell phone conversation) convinced her to return, they disembarked in or near Victoria, Texas. Aragon further advised that during the return trip in DURAN's vehicle, DURAN repeatedly struck her on the nose with a closed fist as her daughter cried while riding in the back seat. Aragon stated that sometime during the middle of 2001, DURAN became angry and

blocked the bedroom door by placing a chest-of-drawers in front of it. He punched her in the face, pushed her face down onto the bed, cursed at her, and removed her pants and underwear. Her shirt and pants were stained with her blood. DURAN forcefully committed anal sexual assault upon her. When he ceased, DURAN verbally abused her and later fell asleep. She was locked within the bedroom until midday the following day. When she eventually sought medical attention, she learned she suffered a broken nose. When she escaped from DURAN he threatened physical harm upon her family. Therefore, she returned to protect her family.

Other

According to Judith Lopez, DURAN made admissions that he previously participated in the beatings of seven (7) other illegal aliens at the warehouse. Lopez stated the individuals were beaten with a golf club approximately one (1) month prior to the deaths of Sagastume and Flores.

Low likelihood of rehabilitation

“a 2002 conviction for aggravated assault”

In November 28, 2001, DURAN was arrested and jailed in the Harris County Jail for the felony offense of Aggravated Assault with a Deadly Weapon. Erika Godomar alleged that DURAN unlawfully, intentionally, and knowingly threatened her with imminent bodily injury, by using and exhibiting a deadly weapon, namely, a knife. The date this offense was committed was on or about November 26, 2001 within Harris County, Texas. On November 28, 2001, an indictment was returned by a Harris County Grand Jury, charging DURAN with the aforementioned felony offense of Aggravated Assault with a Deadly Weapon, under cause/case# 895077. On January 10, 2002, DURAN pled guilty to the offense charged and received a seven (7)-year term of deferred

adjudication. Erika Godomar stated DURAN invited her to a concert and later asked her to come to his apartment. Once inside the apartment, he punched her upper cheek. She momentarily fainted after he punched her. He also beat her with a jump-rope and inserted a wooden stick into her vagina. DURAN threatened her with a pocket knife and placed it on her cheek. DURAN later raped her. DURAN asserted that if he desired, he could kill her, put her in a bag, and dump her body. DURAN also told her that he would seek revenge against her family if she reported the incident. Although she initially reported the incident, DURAN's family convinced her to tell the attorney that she had lied.

“obstruction of justice”

On May 25th, 2007 the defendant plead guilty to Obstruction of Justice, in violation of 18 U.S.C. § 1505, in the 06CR459 in the U.S. District Court of the Southern District of Texas.

Lack of remorse

Duran’s half-sister, Judith Lopez, stated that Duran never showed remorse for his actions when he admitted that he had beaten the aliens and disposed of the two who died. Additionally, as described in the recitation of facts, Duran showed off the tortured and abused victims to Fuentes.

Conclusion

WHEREFORE, the government respectfully submits this informative outline for the purposes set forth above.

Respectfully Submitted,

RYAN K. PATRICK
United States Attorney

By: /s/ Barry K. Disney
Barry K. Disney
Trial Attorney
United States Department of Justice

/s/ Jill Jenkins Stotts
JILL JENKINS STOTTS
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LISA MARIE COLLINS
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CERTIFICATE OF SERVICE

I hereby certify that on February 24, 2020, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to counsel of record.

/s/ Barry K. Disney

Barry K. Disney

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